

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ELUID JOSEPH MENDOZA,)	Case No.: 1:22-cv-01390 JLT SKO
)	
Plaintiff,)	ORDER ADOPTING IN FULL FINDINGS AND
)	RECOMMENDATION TO DISMISS FOR
v.)	FAILURE TO COMPLY WITH THE COURT'S
)	ORDERS AND FAILURE TO PROSECUTE
DOUBLEROAD TRUCK & BUS TYRES,)	
et al.,)	(Doc. 7)
Defendant.)	
)	

On October 28, 2022, Eluid Joseph Mendoza initiated this action seeking to proceed *pro se* and *in forma pauperis*. (Docs. 1, 3.) On February 10, 2023, the assigned magistrate judge reviewed the allegations of the complaint and issued a screening order. (Doc. 5.) The magistrate judge found the complaint failed to allege facts sufficient to support a conclusion that the Court has jurisdiction, and it failed “to state any cognizable claims.” (*Id.* at 4-8.)

The magistrate judge informed Plaintiff that he had “a choice on how to proceed.” (Doc. 5 at 9.) Specifically, the Court indicated: “Plaintiff may file an amended complaint if he can substantiate the amount in controversy for purposes of subject matter jurisdiction and he believes that additional true factual allegations would state cognizable claims as to each Defendant named in the complaint.” (*Id.*) In the alternative, the Court informed Plaintiff that he “may choose to stand on his complaint subject to the Court issuing findings and recommendations to a district judge consistent with [the] order.” (*Id.*) Finally, the Court gave Plaintiff the option of filing a notice of voluntary dismissal. (*Id.*)

1 No matter which option he chose, he was required to respond within 30 days of the date of service. (*Id.*
2 at 9.) Plaintiff failed to respond.

3 On March 17, 2023, the magistrate judge ordered Plaintiff to show cause within 21 days as to
4 why the action should not be dismissed for his failure to comply with the Court's screening order and
5 for failure to prosecute this case. (Doc. 6.) The Court advised him in the screening order and the
6 order to show cause that the failure to comply with the Court's orders would result in recommendation
7 that the action be dismissed. (*Id.* at 2; *see also* Doc. 5 at 10.) Plaintiff again did not file any response,
8 and the time to do so has passed.

9 On April 18, 2023, the magistrate judge recommended the action be dismissed due to Plaintiff's
10 failure to comply with the Court's orders and failure to prosecute. (Doc. 7.) The Court granted 21 days
11 from the date of service for Plaintiff to file any objections. (*Id.* at 2.) In addition, the Court advised
12 Plaintiff that "failure to file objections within the specified time may result in the waiver of rights on
13 appeal." (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).) Thus, any objections
14 were due no later than May 12, 2023. To date, no objections have been filed.

15 Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court conducted a de novo review of the case.
16 Having carefully reviewed the matter, the Court finds the Findings and Recommendation are
17 supported by the record and proper analysis. Based upon the foregoing, the Court **ORDERS**:

- 18 1. The Findings and Recommendation issued on April 18, 2023 (Doc. 7) are **ADOPTED**
19 in full.
- 20 2. This action is **DISMISSED** without prejudice.
- 21 3. The Clerk of Court is directed to close this case.

22
23 IT IS SO ORDERED.

24 Dated: May 18, 2023


UNITED STATES DISTRICT JUDGE